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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/709,303	11/13/2000	Suk Won Park	0630-1175P	3414
2292	7590	10/31/2006	EXAMINER	
BIRCH STEWART KOLASCH & BIRCH PO BOX 747 FALLS CHURCH, VA 22040-0747			LONSBERRY, HUNTER B	
			ART UNIT	PAPER NUMBER
			2623	

DATE MAILED: 10/31/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

09/709,303

Applicant(s)

PARK ET AL.

Examiner

Hunter B. Lonsberry

Art Unit

2623

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 02 October 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 4 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: see continuation. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 1-3, 5-10, 12-17 and 19-33.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☐ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.

from above:

The requested amendments to claims 1,7 and 12 provide a new set of claim features, which would require further consideration for the corresponding dependant claims.

Applicant argues there is no motivation to combine Kaplan with Mao in that they teach one another, specifically that Mao teaches that a separate Internet access connection is undesirable. (pages 16-18).

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, Mao discloses a system in which an AV signal has simulcast HTML content. Kaplan discloses a system in which a user may navigate a webpage to change a currently selected TV program, discloses displaying a webpage of the entirety of a television display, discloses connecting to FTP sites, gophers etc (column 5, lines 60-65, column 6, lines 22-36, and 59-61), and the ability to save received Internet addresses without having to leave the program signal (column 3, lines 5-8). Therefore, it would have been obvious to modify the Internet display system of Mao to utilize the navigation features, access to FTP and gophers, the full display of a web site, and saving received web address features of Kaplan for the advantage of making it easier to view Internet content through using the entirety of a display, access different types of content, make it easy for a user to find programming of interest and allow a user to revisit interesting websites at a time of their choosing.

Further, Mao and Kaplan both disclose combination television/Internet systems. While Mao does disclose that access to the PSTN may tie up a house phone line, Kaplan discloses utilizing a cable modem, which does not require the use of a house phone line (column 2, lines 33-36). Further, the use of a return line provides more flexibility to a user in that a user can access additional sources of content at a time of their own choosing and the use of a cable modem provides a high speed pathway for the delivery of content and for the transmission of requests, thus minimizing any delays. Thus the combination of Mao and Kaplan is proper.

Applicant argues that in claim 7, displaying only the A/V signal is conditioned upon the browser function not being operated. In contrast, in Shoff simply displaying the video data stream is conditioned upon there being no supplemental content. The absence of supplemental content is not equivalent to the browser function not being operated. Applicant argues that the Examiner is arguing inherency and the browser function may also not be operated for a variety of other reasons such as the user simply choosing not to operate the browse function. Because the feature does not necessarily flow from the teachings of Shoff, the inherency argument fails (pages 21-22).

The Examiner disagrees, as correctly noted by Applicant, Shoff teaches displaying only a video signal if no supplemental content is detected. Shoff however goes further than that as reproduced below:

(31) The method begins when a viewer tunes to a particular channel (step 150 in FIG. 6). The channel navigator 102 controls the tuner 98 to tune to the channel. The viewer computing unit checks the appropriate channel and time slot of the EPG data structure 48 to determine if the program being carried on the selected channel at this time is interactive (step 152). As described above, the presence of a target specification in the EPG data field 58 in association with the program is an indication that the program is interactive compatible and that there is supplemental content for the program. If the data field is empty, indicating that no supplemental content exists (i.e., the "no" branch from step 154), the viewer computing unit simply displays the video data stream being received through the tuner 98 (step 156).

(32) A run-time technique can alternatively be used for detecting whether a program is interactive compatible. Rather than checking the EPG data field, the viewer computing unit checks a dedicated channel for the existence of new supplemental content data. The dedicated channel is separate from the selected channel carrying the program so that the supplemental content is received by the viewer computing unit currently with the program video data. The existence of a supplemental content data stream over the dedicated channel indicates that the program being received on the selected channel is interactive compatible. This technique can be carried out without reference to the EPG listing.

(33) If the program is interactive compatible (i.e., the "yes" branch from step 154), the viewer computing unit retrieves the target specification from the EPG data structure (step 158 in FIG. 6). The target specification might be a pointer to a memory location at the headend, or a pointer to a memory location on a locally running CD-ROM, or a hyperlink to a target resource located at an independent service provider. The hyperlink browser 106 is loaded onto the processor to render the target resource referenced by the target specification (step 160).

(34) At this point, there are several ways to initiate viewing the supplemental content. One approach is to permit the viewer to selectively activate the interactive mode (i.e., the "viewer activate" branch from step 160). The viewer may know that the program is interactive compatible by

checking a newspaper listing or other program guide. Another way is to have the viewer computing unit display an icon or other indicia on the screen to visually inform the viewer that the program is interactive compatible (step 162 in FIG. 6). The icon can be overlaid on the playing video program in a non-conspicuous manner, like the closed caption or stereo labels.

The Examiner notes the last sentence of paragraph 33. This clearly teaches that the browser process is only instigated upon detection of interactive content. The Examiner is not alleging inherency as Shoff clearly teaches when the process is started. Additionally, Shoff teaches that the user can choose whether or not to display the supplemental content. Applicant argued the above as an alternative to an inherency argument, which Shoff does in fact teach. Further the claim requires that if a browser function is not operated, only the A/V signal is displayed. The claim is silent as to what exactly a browser function is. Is it a display function? Is it a browser process? The broadest possible reasonable interpretation would include a browser function to be the display of supplemental content. Therefore, the combination with Shoff is proper.



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